

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Monday, June 3, 2002

Division One

**A094658, A094659, A094661 & A094662 -- Chubb & Son v. Kathleen McDermott.**

The injunctions in these consolidated appeals are affirmed. Marchiano, P.J.  
We Concur: Stein, J., Swager, J. (Not for Publication.) Los Angeles

Division Two

**A094082 -- The People v. Dan Albert Brughelli.**

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J.,  
Ruvolo, J. (Not for Publication.)

**A095703 -- Mary C. Keitel v. George W. Heubel, et al.**

By the Court: It is ordered that the opinion filed herein on May 21, 2002,  
be modified as follows: (See order.) This modification does not effect a change in  
the judgment. Kline, P.J.

Tuesday, June 4, 2002

Division One

**A096818 -- The People v. Jessie David Perez.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**A094497 -- In re Lauren G., et al., Persons Coming Under the Juvenile Court Law. Del Norte County Department of Health & Social Services v. Christine B.**

The jurisdictional and dispositional orders are affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Five

**A095916 -- Barry Moore v. Paul Pong U. Nam.**

The restraining order is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Wednesday, June 5, 2002

Division One

**A093556, A093914 -- George V. Simon v. John Muir/Mt. Diablo Health System et al.**

The preliminary injunctions and the orders granting them are reversed and the matter is remanded for additional proceedings consistent with this opinion. Appellants are entitled to costs on appeal. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Two

**A098976 -- Frederick Lynn Franklin v. The Superior Court of San Mateo County; People of the State of California, R.P.I.**

By the Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

Division Three

**A092376 -- The People v. Marcus Eric Dukes.**

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Five

**A093289 -- The People v. Robert Lee Burton, Sr.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Wednesday, June 5, 2002 (continued)

**A093861 -- County of San Mateo v. California State Board of  
Equalization and City and County of San Francisco.**

The SBE's decision to allocate tax revenues for the sale of jet fuel at SFO for the years 1994 through 1998 was correct. The trial court's grant of summary judgment in favor of SBE is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Thursday, June 6, 2002

Division One

**A094834 -- The People v. Robert Lee Cantwell.**

The judgment of conviction is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**A098974 -- In re John Gzikowski, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Petitioner has failed to show full exhaustion of administrative remedies and has failed to provide an adequate record for review. Haerle, Acting P.J.

**A098634 -- Loretta M. v. The Superior Court of Del Norte County; Del Norte County Department of Health and Human Services, R.P.I.**

By the Court: The petition for writ of mandate is denied. (See *Glen C. v. Superior Court* (2000) 78 Cal.App.4th 570 and *Joyce G. v. Superior Court* (1995) 38 Cal.App.4th 1501.) Haerle, Acting P.J.

**A098966 -- In re Dahesi Roark, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

Division Three

**A095375 -- Gene Hazzard v. Jerry Brown, as Mayor of the City of Oakland, et al.**

By the Court: The petition for rehearing is denied. McGuinness, P.J.

Thursday, June 6, 2002 (continued)

Division Four

**A093612 -- In re William C., a Person Coming Under the Juvenile Court Law. The People v. William C.**

The juvenile court jurisdictional order is affirmed. The dispositional order is remanded to the juvenile court for further action consistent with this opinion. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

**A095806 -- Alan Swain et al. v. California Casualty Insurance Co.**

The Court: The request for publication of this court's May 17, 2002, opinion is granted and it is hereby ordered that said opinion be published in the Official Reports. Reardon, Acting P.J.

Division Five

**A098072 -- Melinda H. v. The Superior Court of Contra Costa County; Contra Costa County Bureau of Children and Family Services, R.P.I.**

Let an extraordinary writ issue directing the Contra Costa County Superior Court to vacate its February 20, 2002 order in Case No. J01-01353 setting a permanency planning hearing for the minor Shavanna H. and to enter a new order setting a six-month review hearing after affording petitioner Melinda H. proper notice. (See § 366.21, subd. (b); rule 1460(b).) In the interest of justice, our decision is final immediately as to this court. (Rule 24(d).) Pending the issuance of the remittitur, the permanency planning hearing for the minor Shavanna H., currently set for June 12, 2002, is stayed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

Friday, June 07, 2002

Division One

**A095009 -- Anderson Valley Environmental Protection Group v. County of Mendocino; Gary Kaliher et al.**

The judgment denying the petition for writ of mandate is affirmed.  
Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A096932 -- The People v. Pauline Klepadlo Bright.**

The judgment is affirmed. The court is directed to issue a corrected abstract of judgment accurately reflecting the court's determination that appellant is entitled to 496 days' total presentence credit. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A094332 -- The People v. Charles Carr.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A095908 -- The People v. William Paul Lipps, Jr.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

**A093165 -- The People v. Richard James Mills II.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Friday, June 07, 2002 (continued)

Division Two

**A096305 -- In re Darnell T., a Person Coming Under the Juvenile Court Law. The People v. Darnell T.**

The juvenile court's order declaring appellant a ward of the court, removing him from the physical custody of his mother, and placing him at Camp Wilmont Sweeney are affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

**A095792 -- Patrick Trahan et al. v. Jeffrey Trahan et al.**

The decree is affirmed. Costs on appeal are awarded to respondents. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Certified for Publication.)

Division Three

**A099007 -- In re Jeremiah Johnson, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. (McGuiness, P.J., & Corrigan, J. participating.) McGuiness, P.J.

Division Four

**A094495 -- The People v. Thomas Lee Walker, Jr.**

The judgment is affirmed in its entirety. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)



Monday, June 10, 2002

Division One

**A096220 -- Linda Levitsky et al. v. Farmers Insurance Group of Companies.**

The trial court correctly sustained the demurrer. The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

**A090215, A090244 -- Nagin D. Patel et al. v. California Fair Plan Association.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A096317 -- The People v. Troy Leonard Schmitt.**

The fine pursuant to section 1202.45 is vacated. The clerk of the superior court is directed to amend the abstract of judgment accordingly, and transmit it to the parties and the California Department of Corrections. IN all other respects, the judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**A096488 -- In re Crystal A. et al., Persons Coming Under the Juvenile Court Law. Solano County Health and Social Services Department v. Leiny A.**

The orders are affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A092056 -- The People v. Richard Higgins.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Monday, June 10, 2002 (continued)

Division Three

**A098074 -- Jane Marie Bowie v. Charles M. Bowie.**

The appeal is dismissed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A093427 -- Insurance Commissioner of the State of California v. Golden Eagle Insurance Company, Aero-Crete, Inc.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Division Four

**A095788 -- In re James B., a Person Coming Under the Juvenile Court Law. The People v. James B.**

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

**A091934 -- Harry W. Low, as Insurance Commissioner, etc. v. Golden Eagle Insurance Company, Metabolife International, Inc.**

The order of the superior court denying claimant's application for an order to show cause is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Certified for Publication.)

**A095984 -- VGM Leasing, Inc. v. St. Luke's Subacute Hospital and Nursing Centre, Inc. et al.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

**A094042 -- Patricia Ann Williams v. The State Bar of California et al.**

The judgment of the Superior Court is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Monday, June 10, 2002 (continued)

Division Five

**A095968 -- In re Andrew C., a Person Coming Under the Juvenile Court Law. The People v. Andrew C.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J.  
(Not for Publication.)

**A086948 -- David J. Garthe et al. v. Susan Molinari.**

The judgment is reversed. Simons, J. We Concur: Jones, P.J., Stevens, J.  
(Not for Publication.)

**A094619 -- Avis Jones v. City and County of San Francisco.**

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J.  
(Not for Publication.)

Tuesday, June 11, 2002

Division One

**A095880 -- In re Ashli J., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Terri D.**

The juvenile court orders appealed from are affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

**A094080 -- Kevin L. Cook, et al. v. Peterson Tractor Co., et al.**

We affirm. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A095800 -- City of Oakland v. Workers' Compensation Appeals Board and David Gullet.**

The award of temporary and permanent psychiatric disability payments is hereby vacated. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Certified for Publication.)

Division Three

**A096033 -- The People v. Richard Lewis Harvey**

**A097956 -- In re Richard Lewis Harvey on Habeas Corpus.**

The petition is denied. Pollak, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, June 11, 2002

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J., Reardon, J. and Sepulveda, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Vincent Chambers, Bailiff.

A095399     People  
              v.  
              Eduardo E.  
Cause called. Jonathan Soglin argued for appellant Alas. Nancy Tung, Deputy Attorney General, argued for respondent. Cause submitted.

At this point, the court reconstituted itself to include Kay, P.J. and Sepulveda, J.

A095323     David R. Olick  
              v.  
              Georgia Ann Michell  
Cause called. Both counsel confirmed waiving Justice Rivera's presence on the bench. David Smyth argued for appellant Olick. Georgia Ann Michell argued for respondent. Cause submitted.

At this point, the court reconstituted itself to include Kay, P.J., Reardon, J. and Sepulveda, J.

A090932     Emeryville Redevelopment Agency  
A091716     v.  
A093126     Elementis Pigments, Inc.  
Causes called. Natalie West argued for appellant Emeryville Redevelopment Agency. James Berg argued for respondent. Causes submitted.

Court recessed at 11:37 a.m.

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, June 11, 2002

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Reardon, Acting P.J. and Sepulveda, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Jason Keirse, Bailiff.

A095378      Jacqueline Schultz

v.

Charlotte Almond

Cause called. Both counsel confirmed waiving Justice Rivera's presence on the bench. Sarah Overton argued for appellant Almond. Andrea Saltzman argued for respondent. Cause submitted.

A096014      Ilana Barth

v.

Tamara Merry

Causes called. Both sides confirmed waiving Justice Rivera's presence on the bench. Tamara Merry argues on her own behalf. Timothy A. Larsen argues for respondent. Cause submitted.

The Court adjourned at 2:04 p.m.

Tuesday, June 11, 2002 (continued)

Division Five

**A097152 -- Aaron Turner v. City of Oakland.**

The judgment is affirmed. Gemello, J. We Concur: Stevens, Acting P.J.,  
Simons, J. (Not for Publication.)

**A095588 -- The People v. Peter Louis Vrablik.**

The judgment is affirmed. Simons, J. We Concur: Stevens, Acting P.J.,  
Gemello, J. (Not for Publication.)

Wednesday, June 12, 2002

Division One

**A097836 -- In re Damien D., a Person Coming Under the Juvenile Court Law. The People v. Damien D.**

The order adjudicating appellant a ward of the court and placing him outside the parental home is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A092790 -- The People v. Abraham T. Zemarian.**

For all of the foregoing reasons, the judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Three

**A093546 -- Insurance Commissioner of the State of California v. Golden Eagle Insurance Company.**

By the Court: Since this court's May 13, 2002 opinion does not meet the standard for publication as set forth in rule 976(b) of the California Rules of Court, the request for publication is denied. Pursuant to rule 978(a) of the California Rules of Court, the Clerk is directed to forward to the Clerk of the Supreme Court the request for publication, the opinion, and a copy of this order. McGuiness, P.J.



STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, June 12, ,2002

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness P.J., Corrigan J., Parrilli J and C. Turner, Deputy Clerk.

A093911 Jonathan Stanton,  
v.

The StageCoach Inn, et al.,

Cause called and argued by Dean Michael Schmidt, counsel for appellant,  
and Joseph C. Costella, counsel for respondent.

Cause ordered submitted.

A094269 In re the Marriage of Paul Hu and Jing Li.  
Jing Li,

v.

Paul Sihua Hu,

Cause called and argued by Leroy Wingfield Rice, counsel for appellant, and  
Edward C. Y. Lau.

Cause ordered submitted.

A095600 Joel Jacobs,  
v.

California Department of Justice, et al.,

Cause called and argued by Joel Samuel Jacobs, counsel for appellant, and  
Diana Lynn Cuomo, counsel for respondent.

Cause ordered submitted.

A095371 Waste Management of Alameda County, Inc.  
v.

City of Fremont, et al.,

Cause called and argued by Michael H. Remy, counsel for appellant, and  
Ethan P. Schulman, counsel for respondent.

Cause ordered submitted.

Justice Pollak took his place on the bench

A096718 Carlos Q Leal,  
v.  
Stephen Gourley,  
Cause called and argued by Paul McCarthy, counsel for appellant, and  
Miguel Angel Neri, counsel for respondent.  
Cause ordered submitted.

A095772 Roy Muao,  
v.  
Grosvenor properties, et al.,  
Cause called and argued by Daniel Gerard O'Donnell, counsel for appellant,  
and Susan H. Roos, counsel for respondent.  
Cause ordered submitted.  
court recessed until 1:30 p.m.

STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, June 12, 2002

Court reconvened at 1:30 p.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness P.J., Parrilli J., Pollak J., and C. Turner, Deputy Clerk.

A094020 C.H.E.G., INC.,  
v.  
Millennium Bank,  
Cause called and argued by David Marvin Wiseblood, counsel for appellant,  
and Robert E. White, counsel for respondent. Cause ordered submitted.

Justice Corrigan took her place on the bench.

A094384 United National Insurance Company,  
v.  
The Housing Group, et al.,  
Cause called and argued by Alpheus Raymond Hamrick, counsel for  
appellant, and Jon-Marc Dobrin, counsel for respondent. Cause ordered  
submitted.

Just McGuiness left the bench

A094921 Tim O'Neil,  
v.  
Levi Strauss & Co.,  
Cause called and argued by Philip J. Martin, counsel for appellant, and  
Margaret Hart Edwards, counsel for respondent. Cause ordered submitted.  
court adjourned

Thursday, June 13, 2002

Division One

**A094258 -- In re the Estate of John H. East, Deceased.**

**Kenneth Williams v. John East Jr., et al.**

By the Court: The petition for rehearing is denied. Since this court's May 14, 2002 opinion does not meet the standard for publication as set forth in rule 976(b) of the California Rules of Court, the request for publication is denied. Pursuant to rule 978(a) of the California Rules of Court, the Clerk is directed to forward to the Clerk of the Supreme Court the request for publication, the opinion, and a copy of this order. Marchiano, P.J.

Division Two

**A096366 -- The People v. Brian Lee Fowler.**

The judgment is modified to reflect a \$200 restitution fine under section 1202.4, subdivision (b), and a \$200 restitution fine (suspended unless parole is revoked) under section 1202.45. The court's reservation of the right to order restitution is stricken. As modified, the judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Thursday, June 13, 2002

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P. J., Lambden, J., Ruvolo, J. and I. Santos, Deputy Clerk.

A096642     Bruce Flanagan,  
                 v.  
                 Ron Leuty et al.  
Cause called and argued by Bruce Flanagan, in propria persona, and Mary Duffy Carolan, counsel for respondent, for an order to show cause why appellant should not be sanctioned for pursuing a frivolous appeal. Cause argued and submission deferred.

At this point of the proceeding, Justice Kline leaves the bench and Justice Haerle joins the bench for the remainder of the cases.

A094135     LaJoyce Porter,  
                 v.  
                 Michael Lawson.  
Cause called and argued by LaJoyce Porter, in propria persona, and Byron Thompson, counsel for respondent. Cause ordered submitted.

A094056     Ad Hoc Committee for Clean Water,  
                 v.  
                 Sonoma County Board of Supervisors.  
Cause called and argued by Thomas Lippe, counsel for appellant, and Phyllis Gallagher, counsel for respondent. Cause ordered submitted.

A096146     Richard Walrath,  
                 v.  
                 Stephen Sprinkle.  
Cause called and argued by Daniel Payne, counsel for appellant. Counsel for respondent did not appear. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P.J., Haerle, J., Ruvolo, J. and I. Santos, Deputy Clerk.

A091038 In re Zachary M. et al.  
A095963 Social Services Agency,  
A094698 v.  
Ramona M. et al.  
Cause called and argued by Caroline Todd, counsel for appellant, and Jennifer Williams, counsel for respondent. Cause ordered submitted.

A092371 The People,  
v.  
Mark Ray Gomez.  
Cause called and argued by Barry Karl, counsel for appellant, and James Panetta, counsel for respondent. Cause ordered submitted.

A096019 The People,  
v.  
Shawn Dee Ricafrente.  
Cause called and argued by Thea Greenhalgh, counsel for appellant, and Bruce Ortega, counsel for respondent. Cause ordered submitted.

At this point of the proceeding, Justice Ruvolo leaves the bench and Justice Lambden joins the bench for the remainder of the cases.

A097680 Jihad Baqleh,  
v.  
The Superior Court of San Francisco County;  
The People, RPI.  
Cause called and argued by Michael Burt, counsel for petitioner, and Jeffrey Laurence, counsel for real party in interest. Cause argued and submission deferred pending filing of supplemental letter briefs.  
Petitioner's brief due 6-21-02; RPI's brief due 6-28-02.

A094732 Richard Stanley,  
v.  
Providian Financial Corp.  
Cause called and argued by John Linneball, counsel for appellant, and Jessica Pasternack, counsel for respondent. Cause ordered submitted.

A096372 Christopher Fletcher,

v.

The Superior Court Alameda County;

Oakland Police Department, RPI.

Cause called and argued by Adrienne Elenteny, counsel for petitioner, and Michael Fortes, counsel for real party in interest. Cause ordered submitted.

**COURT ADJOURNED.**

Thursday, June 13, 2002 (continued)

Division Three

**A096464 -- The People v. John Ray Hughes.**

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A090998 -- The People v. Gary James Palmer**

**A096501 -- In re Gary James Palmer, on Habeas Corpus.**

The judgment is affirmed. The habeas corpus petition is denied. The trial court is directed to correct its minutes of April 11, 2000, to delete the references to stricken priors numbered 5, 7, 14, 15 and 16. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)



Thursday, June 13, 2002 (continued)

**A089786, A091655, A093956 -- William Sexton et al. v. Hasan Mansouri.**

The order of April 20, 2000, vacating Commissioner Sanders' April 1999 order granting Mansouri's motion to tax costs and the November 15, 1999 order denying the Sextons' section 473 motion for relief from the April 1999 order, is reversed. Both Commissioner Sanders' orders shall be reinstated. We also reverse the order of May 30, 2000, granting in part and denying in part Mansouri's motion to tax costs, as well as the December 29, 2000 and January 19, 2001 orders specifying the amount of attorney fees awarded. Commissioner Sanders' November 15, 1999 order denying relief to the Sextons under section 473 is affirmed. Mansouri shall recover his costs on appeal. Pollak, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

Division Four

**A095651 -- The People v. Salvador F. Saucedo.**

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

**A097278 -- In re Anastasia W., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Bryan W.**

The Court.\* The appeal is dismissed. (Not for Publication.)

\*Kay, P.J., Reardon, J., Sepulveda, J.

Friday, June 14, 2002

Division Two

**A095991 -- Denney Ross Dodson et al. v. City Center Realty et al.**

The judgment is affirmed. The Dodsons shall pay costs. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A093572 -- The People v. Paul Douglas Loutzenhiser.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A095253 -- The People v. George John Sayabouiphet.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A094126 -- The People v. Danny Lynn Terrell.**

We affirm. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Three

**A095592 -- In re Joel G., a Person Coming Under the Juvenile Court Law. Contra Costa County Social Service Department v. Monica D.**

By the Court: The petition for rehearing is denied. Respondent's motion to augment the record is denied. McGuiness, P.J.

**A091124 -- James Quinn, et al. v. Thomas C. McCoy; The Pacific Bank.**

The award of attorney fees to Pacific is reversed. The judgment is otherwise affirmed. Pacific and McCoy shall recover their costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.) 0

**A094597 -- The People v. Timothy Roller.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Friday, June 14, 2002 (continued)

Division Five

**A093696 -- L.L.L. Company v. George Wynns, et al.**

By the Court: The petition for rehearing is denied. Jones, P.J.

**A094967 -- The People v. Yeric Lamar Swick.**

The judgment is affirmed. Gemello, J. We Concur: Stevens, Acting P.J.,  
Simons, J. (Not for Publication.)

Monday, June 17, 2002

Division One

**A098930 -- Kenneth Tyron Oglesby v. The Superior Court of Sonoma County; The People, R.P.I.**

Let a peremptory writ of mandate issue, commanding respondent County of Sonoma Superior Court to immediately file the notice of appeal received February 5, 2002, in *People v. Kenneth Tyron Oglesby* (Case No. SCR-29981). This opinion is final as to this Court immediately. (Cal. Rules of Court, rule 24(d).) Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A094706 -- The People v. James Williams.**

The matter is remanded to the trial court with directions to strike the one-year enhancement of appellant's sentence under subdivision (b) of section 667.5, and to send a corrected abstract of judgment to the Department of Corrections. In all other respects, the judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Three

**A097297 -- Norman D. Dostal v. Martinez Refining Company.**

Appellant to bear costs of appeal. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A095600 -- Joel Jacobs v. California Department of Justice, et al.**

The denial of appellant's petition for writ of mandate is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A097347 -- The People v. Richard Paul Phillips, Jr.**

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Monday, June 17, 2002 (continued)

**A096398 -- In re the Marriage of Evelyn C. and Allan H. Nichol.  
Evelyn C. Nichol v. Allan H. Nichol.**

The trial court's June 28, 2001, order on order to show cause is affirmed.  
Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Tuesday, June 18, 2002

Division One

**A097553 -- The People v. Allen Wayne Sadders.**

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J.,  
Swager, J. (Not for Publication.)

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Tuesday, June 18, 2002

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Swager, J., and Margulies, J.; N. Millner, Deputy Clerk, and R. Chavez, court security.

- A091940      The People,  
                  v.  
                  Eliel Elpido Brown.  
Cause called and argued by George L. Schraer, counsel for appellant, and Francis Dogan, counsel for respondent. Cause ordered submitted.
- A095699      Elizabeth Oakley,  
                  v.  
                  Russian River Realty.  
Cause called and argued by James Moore, counsel for appellant, and Christopher Appleton, counsel for respondents. Cause ordered submitted.
- A095708/  
A095762      Lance L. Ravella,  
                  v.  
                  Osbourne/McGraw-Hill et al.
- Lance L. Ravella,  
                  v.  
                  McGraw-Hill Companies.  
Cause called and argued by Edward W. Suman, counsel for appellant, and Henry D. Lederman, counsel for respondents. Cause ordered submitted.
- A095229      Espresso Roma Corp., et al.,  
                  v.  
                  Bank of America, N.A.  
Cause called and argued A. Charles Dell'Ario, counsel for appellants, and Mia S. Blackler, counsel for respondent. Cause ordered submitted.

A095369      Howard Marcus Lerch,  
                  v.  
                  Burns International.  
Cause called and argued by M. Gerald Schwartzbach, counsel for  
appellant, and Paul B. Watkins, counsel for respondent. Cause ordered  
submitted.

A094975      Susan Kanter, et al.,  
                  v.  
                  Warner-Lambert Company, et al.  
Cause called and argued by Joseph W. Bell, counsel for appellants, and  
Thomas A. Smart, counsel for respondents. Cause ordered submitted.

Court recessed until 1:30 p.m.



## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Tuesday, June 18, 2002

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., Swager, J., and Margulies, J.; B. Robbins, Deputy Clerk; and CHP Officer D. Mendes, Bailiff.

Justice Stein did not participate in argument of the first case.

A096636      City and County of San Francisco,  
                 v.  
                 Nonprofits' Insurance Alliance of California.  
Cause called and argued by Maxwell Peltz, counsel for appellant, and Terry Anastassiou, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Margulies left the bench and Justice Stein participated in the remainder of the calendar.

A095494      In re Astrid N.  
                 Social Services Agency,  
                 v.  
                 June N.  
Cause called and argued by Meredith Lee Fahn, counsel for appellant, and Michael Mazzei, counsel for respondent. Cause ordered submitted.

A097262      Mike Noushfar,  
                 v.  
                 Iraj Shayesteh, et al.  
Cause called. William K. Wilburn, counsel for appellant, was present but did not present argument. As no argument was presented on behalf of appellant, respondent had nothing to which to respond. The Court addressed the request for judicial notice and allowed respondent to briefly address that issue. Cause ordered submitted.

At this point in the proceedings, Justice Swager left the bench and Justice Margulies returned to the bench and participated in the remainder of the calendar.

A096700     The People,  
              v.  
              Scott Leroy Bailey.  
Cause called and argued by Randy Baker, counsel for appellant, and James Panetta, counsel for respondent. Cause ordered submitted.

A095185     Marilyn Hill,  
              v.  
              John Muir/Mt. Diablo Health Systems.  
Cause called and argued by Stephan C. Williams, counsel for appellant, and Elaine Vukadinovich, counsel for respondent. Cause ordered submitted.

Court adjourned.

No cases were heard on Wednesday, June 19, 2002.

Tuesday, June 18, 2002 (continued)

Division Two

**A096343 -- In re Aurora H., Daniel H., & Isaac H., Persons Coming Under the Juvenile Court Law. Del Norte County Department of Social Services v. Spencer H.**

We affirm. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A094857 -- The People v. Freddy Lamar Haas.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A099103 -- Terence Hallinan v. The San Francisco County Superior Court.**

By the Court: Petition for writ of prohibition/mandate/and request for stay are denied. The court did not find Mr. Hallinan in contempt. Therefore, Code of Civil Procedure section 1211's affidavit requirement did not apply. The court's order to show cause, which described the sanctionable conduct, provided sufficient notice to support the section 177.5 sanction. Mr. Hallinan was given an opportunity to be heard and conceded that he violated the court's order. The court therefore acted within its discretion in imposing the sanction. (Its reference to section 1209(c) as authority for a stay of execution was mistaken, in light of the finding that Mr. Hallinan was not in contempt.) Haerle, Acting P.J.

**A095703 -- Mary C. Keitel v. George W. Heubel, et al.**

By the Court: It is ordered that the opinion filed herein on May 21, 2002, be modified in the following particulars: (See order.) This modification does not effect a change in the judgment. The petitions for rehearing filed by the Heubels and Daniel Bacon are denied. Kline, P.J. (Certified for Publication.)

Tuesday, June 18, 2002 (continued)

Division Four

**A095586 -- The People v. Anthony Pier.**

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J.  
(Not for Publication.)

Division Five

**A096321 -- The People v. Romon K. Bennett.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J.  
(Not for Publication.)

**A094991 -- The People v. Curtis Hall.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J.  
(Not for Publication.)

**A096400 -- LaBruce King et al. v. Linda Mauritson et al.**

The judgment of dismissal is reversed and the matter remanded to permit plaintiffs to amend the operative complaint. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

Wednesday, June 19, 2002

Division One

**A097494 -- The People v. Jose Atilo Claros.**

By the Court: Appellant having filed an abandonment of appeal in this court, the appeal is dismissed and the remittitur is to issue forthwith. Marchiano, P.J.

**A095596 -- The People v. Dan Stephen Ornellas.**

By the Court: Appellant having filed an abandonment of appeal in this court, the appeal is dismissed and the remittitur is to issue forthwith. Marchiano, P.J.

Division Two

**A093896 -- The People v. Christopher Bethel.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Three

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**A094269 -- Jing Li v. The Superior Court of the City and County of San Francisco; Paul Sihua Hu, R.P.I.**

Let a peremptory writ of mandate issue, directing the trial court to set aside the judgment entered on February 9, 2001. In the interests of justice, each party to bear his or her costs of appeal. McGuinness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A094384 -- United National Insurance Company et al. v. The Housing Group et al.**

The order is reversed. Respondent THG shall bear costs of the appeal. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Wednesday, June 19, 2002 (continued)

**A096779 -- The People v. Joe Raymond Wilson.**

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Four

**A096014 -- Ilana Barth v. Tamara Merry.**

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A098690 -- Kenneth Allen Carpenter v. The Superior Court of Sonoma County ;The People, R.P.I.**

We conclude that a peremptory writ should issue in the first instance. The issue presented concerns a well-settled rule of law and no purpose could reasonably be served by plenary consideration of the issues. We notified the parties that we might issue a peremptory writ in the first instance, and solicited opposition from real party in interest. (*Lewis v. Superior Court, supra*, 19 Cal.4th at p. 1240; *Ng v. Superior Court, supra*, 4 Cal.4th at p. 35; *Palma v. U.S. Industrial Fasteners, Inc., supra*, 36 Cal.3d at p. 180.) Real party in interest is in agreement that the writ should issue. Let a peremptory writ issue restraining the respondent court from taking any action to enforce its oral order of April 24, 2002, granting the People's request for a second remand pursuant to section 995a, subdivision (b)(1) and that order is hereby annulled. The respondent court is directed to rule on the pending section 995 motion to dismiss the great bodily injury allegation. The stay previously imposed by order of this court on June 7, 2002 is hereby dissolved. This opinion is final as to this court immediately. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

**A091883 & A093200 -- Terence Crosby et al. v. Rene De La Rosa.**

The judgment is affirmed. The Crosbys shall recover their costs on appeal. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Wednesday, June 19, 2002 (continued)

**A097676 -- The People v. Antonio Macapagal Quiambao.**

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A095378 -- Jacqueline Schultz v. Charlotte Almond, as Administrator, etc.**

The judgment is affirmed in its entirety. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A094547 -- The People v. Namon Arthur West.**

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A098321 -- In re Felicia H., a Person Coming Under the Juvenile Court Law. Felicia M. v. Superior Court of the County of Contra Costa; Contra Costa County Department of Social Services, et al**

The petition for extraordinary writ review and request for stay are denied on their merits. (Cal. Const., art VI, § 14; rule 39.1B(o); *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Petitioner is barred in any subsequent appeal from making further challenges to the orders terminating reunification services and setting a hearing under section 366.26. (§ 366.26, subd. (1).) Because the section 366.26 hearing is set for August 2, 2002, our decision is final as to this court immediately. (Rule 24(d).) Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A095364 -- The People v. Kenneth Dell Person.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Thursday, June 20, 2002

Division Two

**A094782 -- The People v. Charles Jackson.**

**A096678 -- In re Charles Jackson on Habeas Corpus.**

The judgment challenged by the appeal (A094782) is affirmed; the petition for writ of habeas corpus (A096678) is denied. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A094979 -- Kimber Ruffu v. California Physicians Service.**

The judgment is affirmed. Costs on appeal to respondent. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

**A096401 -- Conservatorship of the Person of Edward W., Jr.**

The judgment is reversed. The trial court is ordered to grant the petition for writ of mandate and request for declaratory relief in accordance with the views expressed herein. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Certified for Publication.)

Division Three

**A094020 -- C.H.E.G., Inc. v. Millenium Bank.**

The judgment is reversed and remanded to the trial court with instructions to enter judgment in favor of the bank. The bank shall recover its costs on appeal. Pollak, J. We Concur: McGuinness, P.J., Parrilli, J. (Certified for Publication.)

**A094440 -- The People v. Lisa Dawn Olson.**

The judgment is affirmed. Pollak, J. I Concur: Parrilli, J. I Concur in the Result: Corrigan, Acting P.J. (Not for Publication.)



Thursday, June 20, 2002 (continued)

Division Four

**A094838 -- The People v. Daniel A. Aitkens.**

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A095673 -- In re Joseph K., a Person Coming Under the Juvenile Court Law. The People v. Joseph K.**

The cause is remanded to the juvenile court for the limited purpose of entering an express declaration under section 702. (*In re Manzy W., supra*, 14 Cal.4th at pp. 1209-1211.) In all other respects, the judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

**A096450 -- The People v. Royce Phillip Williams.**

The judgment, including sentence, is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A096962 -- In re Noah H., a Person Coming Under the Juvenile Court Law. The People v. Noah H.**

The disposition is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

## MINUTES

### COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

#### DIVISION FIVE

Thursday, June 20, 2002

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Simons, J.; Gemello, J., and Mary P. Quilez, Deputy Clerk.

A095003 Clayton Lewis

v.

Evelyn Nand

Cause called and argued by Anthony Peter David, counsel for appellant and by George W. Wailes, counsel for respondent. Cause ordered submitted.

A096578 City of Benicia

v.

Michael Helge Remy et al.

Cause called and argued by Matthew Richard Jacobs, counsel for appellant, and by Stacey Noelle Sheston, counsel for respondent. Cause ordered submitted.

A093213 The People

v.

Rigoberto Z. Campos

Cause called and argued by Randi Dana Covin, counsel for appellant and by David Rose, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A096404 Insurance Company of the West

v.

O'Brien-Kreitzberg

Cause called and argued by Morin I. Jacob, counsel for appellants and by Joseph Fitzpatric Moore, counsel for respondent, by teleconference. Cause ordered submitted.

- A095217 Joe B. Schmidt Trust et al.  
v.  
Kathleen Dudgeon  
Cause called and argued by Charles Gadsden Kinney, counsel for appellants,  
and John Prentis, counsel for respondent. Cause ordered submitted.
- A096577 Vera Blue et al.  
v.  
Diana Bonta et al.  
Cause called and argued by Stephen Ronfeldt, counsel for appellant and by  
Cheryl L. Feiner, Deputy Attorney General, counsel for respondent. Cause  
ordered submitted.
- A094946 In re Charles Alex Black on Habeas Corpus  
Cause called and argued by L. Richard Braucher, counsel for appellant and by  
Susan E. Myster, Deputy Attorney General, counsel for respondent, Cause  
ordered submitted.
- A092611 Saleem Mohammed Salimi  
v.  
Naheed Kamal et al.  
Cause called and argued by Kaiser Uzzaman Khan, counsel for appellant and  
by Javed Ellahie, Deputy Attorney General, counsel for respondent, Cause  
ordered submitted.
- A095945 Steven Kaneko  
v.  
DPR Construction et al.  
Cause called and argued by Robert S. Arns, counsel for appellant and by  
Morgan C. Smith and Michael P. Bradley, counsel for respondent. Cause  
ordered submitted.
- A096971 Nancy Cronin  
v.  
Enrique Fainchtein  
Cause called and argued by Glenn Philip Zwang, counsel for appellant and by  
Peter Goodman, counsel for respondent. Cause ordered submitted.

A097083 Tangent Computer, Inc.

v.

Golden Associates, Inc.

Cause called and argued by Stuart Jacob Kaufman, counsel for appellant and by Lorna Ann Walker, counsel for respondent. Cause ordered submitted.

Court adjourned at 12:30 p.m.

Friday, June 21, 2002

Division One

**A095185 -- Marilyn Hill v. John Muir/Mt. Diablo Health Systems, Inc.**

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

**A096507 -- The People v. Edward Kurt Metz.**

The judgment and the state prison sentence are affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

**A095725 -- Warren Robinson et al. v. Chin & Hensolt et al.**

By the Court: Order Modifying Opinion and Denying Rehearing. It is ordered that the opinion filed herein on May 22, 2002, be modified in the following particulars: (See order.) This modification does not effect a change in judgment. The petition for rehearing is denied. Marchiano, P.J. (Certified for Publication.)

Division Three

**A098975 -- Stewart Durant v. The Superior Court of San Mateo County; Gregory Van Sudmeier, R.P.I.**

Let a peremptory writ of mandate issue directing respondent superior court to vacate its May 8, 2002 order to the extent it extended the restraining order prohibiting harassment beyond May 7, 2002, the outer statutory maximum. The trial court shall commence a hearing on whether an injunction prohibiting harassment should issue as soon as possible. In the interest of justice, our decision is final immediately as to this court. (Cal Rules of Court, rule 24(d).) Each party shall bear his own costs herein. Pollak, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

**A096306 -- In re Brian P., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Cristian L.**

The juvenile court's order is reversed. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Certified for Publication.)

Friday, June 21, 2002 (continued)

Division Four

**A093188 -- The People v. David Busio Lopez.**

The matter is remanded to the trial court with instructions to recalculate the custody credits that Lopez is entitled to receive, to strike the unlawful four-month enhancement term associated with the child endangerment sentence, and to issue a corrected abstract of judgment reflecting the correct calculation of credits and the striking of the enhancement term. In all other respects, the sentence imposed in 2000 is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

**A096307 -- In re Laray N., a Person Coming Under the Juvenile Court Law. The People v. Laray N.**

The judgment is reversed and the matter remanded to the juvenile court. That court shall vacate both pleas of no contest if appellant Laray N. elects to do so by means of a petition for writ of error *coram nobis* filed within 30 days of the issuance of the remittitur in this case. If no petition is filed, the juvenile court shall reinstate the original judgment. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Division Five

**A096971 -- Nancy Cronin, as Trustee, etc. v. Enrique Fainchtein.**

The trial court's order is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A092633, A092642, and A092943 -- Dante Rabutaso, et al. v. Manuel Canga., et al.**

By the Court: The petition for rehearing is denied. Stevens, Acting P.J.

Friday, June 21, 2002 (continued)

**A094637 -- The People v. George Session.**

The trial court is ordered to amend the probation report dated March 12, 2001, as follows: On page 11, in the “analysis and plan” section, change the last word in the second paragraph from “knife” to “dirk or dagger” so that the sentence reads, “Also, according to a police report Mr. Session threatened the victim with a dirk or dagger.” In all other respects, the judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Monday, June 24, 2002

Division Two

**A094394 -- Francis Fahy v. Steven Pisano.**

This appeal is dismissed and Fahy is ordered to pay monetary sanctions in the amount of \$8,500 to Pisano and \$6,000 to the clerk of this court. The clerk is directed to deposit said sum in the general fund. All sanctions shall be paid no later than 15 days after the date the remittitur is filed. The clerk is further directed to preclude Fahy from filing any documents in this court unless and until the monetary sanctions are paid. Pisano is awarded his costs on appeal. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A096642 -- Bruce Flanagan v. Ron Leuty et al.**

We hereby dismiss the appeal with prejudice and impose sanctions against Flanagan in the amount of \$14,684. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A095234 -- Brian M. Hallinan v. Karlin Koepcke et al.**

We find no abuse in the exercise of that discretion, and affirm the trial court's denial of attorney fees. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A098792 -- Ellen W. Hill, as Administrator, etc. v. Marion (M.C.) Cloman et al.**

The appeal is dismissed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A093797 -- The People v. Antonio Salvador Chacon.**

The judgment is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)



Monday, June 24, 2002 (continued)

**A094883 -- David McMahon v. Alan Riffer et al.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

**A094921 -- Tim O'Neil v. Levi Strauss & Company.**

The judgment is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

**A093911 -- Jonathan Stanton v. The Stagecoach Inn et al.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

**A095501 -- In re Brian A., a Person Coming Under the Juvenile Court Law. The People v. Brian A.**

The jurisdictional order is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

**A095399 -- In re Eduardo E., a Person Coming Under the Juvenile Court Law. The People v. Eduardo E.**

The order of commitment is reversed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Division Five

**A096882 -- In re A.M., a Person Coming Under the Juvenile Court Law. The People v. A.M.**

The order adjudicating A.M. a ward of the court and placing him on probation in his mother's home is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Tuesday, June 25, 2002

Division One

**A091940 -- The People v. Eliel E. Brown.**

To summarize, we have concluded that the trial court erred by limiting Dr. Riley's testimony and by instructing that second degree murder with implied malice is a general intent crime, but we reject appellant's other claims of error. We also conclude that the errors, considered either singly or cumulatively, did not prejudice appellant and do not require reversal. We affirm the judgment. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A095229 -- Espresso Roma Corporation et al. v. Bank of America, N.A.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A098227 -- Sarah D. Gianelli v. Silverado Resort, Inc., et al., Robert J. Gianelli**

**A098835 -- Sarah D. Gianelli v. Silverado Resort, Inc., et al.**

By the Court: Appellants' motion to consolidate the above-referenced appeals for purposes of briefing, oral argument and decision is granted. Both case numbers shall appear on all documents filed in this Court. Appellants' consolidated opening brief shall be due 30 days from the date of the filing of the record on appeal in A098835. Marchiano, P.J.

**A094975 -- Susan Kanter et al. v. Warner-Lambert Company et al.**

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Certified for Publication.)

**A095369 -- Howard Marcus Lerch v. Burns International Security Services, Inc.**

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Tuesday, June 25, 2002 (continued)

**A095083 -- The People v. Todd R. Ramos.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A095397 -- In re Keyshawana S., a Person Coming Under the Juvenile Court Law. The People v. Keyshawana S.**

The order granting probation is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A096636 -- City and County of San Francisco v. Nonprofits' Insurance Alliance of California.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

**A095538 -- County of Marin v. Joseph Leonard Neufeld.**

The order granting the County's petition for a permanent injunction is affirmed but this case is remanded to the trial court so that it can issue a formal order on the Judicial Council form specifically designated to afford relief under section 527.8, subd. (f). Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Three

**A096491 -- In re Selina C., et al., Persons Coming Under the Juvenile Court Law. Contra Costa County Social Service Department v. Antoyne L.**

The order terminating appellant's parental rights is affirmed. McGuinness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication.)

Tuesday, June 25, 2002 (continued)

**A096081 -- The People v. Steven Myrle Wakefield.**

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A095249 -- The People v. Vaughn Walton.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

**A096223 -- Marilyn Leat (Sedgwick) v. Greg Leat; County of Sonoma.**

There is substantial evidence backing the trial court's order denying the motion to modify child support. We affirm that order. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

**A095363 -- The People v. Patra Murry.**

The sentence is reversed and remanded for a resentencing hearing at which defendant shall be given the opportunity to withdraw her guilty plea and reinstate her plea of not guilty. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

**A095323 -- David Olick v. Georgia Mitchell et al.**

The judgment is affirmed. Each side will bear its own costs on appeal. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

**A093803 -- The People v. Ericka Dianne Ryan.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Tuesday, June 25, 2002 (continued)

**A096528 -- Steven Seidman v. Kinuko Jorgensen.**

The judgment of the superior court is reversed; the cause is remanded for further proceedings. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

**A097067 -- The People v. William Gregory Warren.**

The purported appeal is dismissed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, June 25, 2002

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J., Reardon, J. and Sepulveda, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Shelley Aldridge, Bailiff.

A096237      The Pacific Bank

v.

Edward Safdie et al.

Cause called. Patrick Fabian argued for appellants Safdie et al. Irwin M. Wittlin argued for respondent. Cause submitted.

At this point, the court reconstituted itself to include Kay, P.J., Sepulveda, J. and Rivera, J.

A092460      David Stringer et al.

A092961      v.

Hal Porter Homes

Causes called. George D. Yaron argued for appellant Hal Porter Homes. Kirk C. Jenkins argued for respondent Pacific, Gas & Electric. Causes submitted.

At this point, the court reconstituted itself to include Reardon, J., Sepulveda, J. and Rivera, J.

A095714      Celeste Chapman

v.

California Department of Social Services

Cause called. Appellant Celeste Chapman argued on her own behalf. Beverley A. Meyers argued for respondent. Cause submitted.

A093438      Willie Greene

A093990      v.

Dillingham Construction N.A., Inc.

Causes called. Paul Avilla argued for appellant Dillingham Construction. Andrea Asaro argued for respondent. Causes submitted.

A092777 Town of Corte Madera

v.

Naila Yasin et al.

Cause called. Alice Beasley argued for appellants Yasin et al. Jeffrey Walter argued for respondent. Cause submitted.

Court adjourned at 11:21 a.m.

Tuesday, June 25, 2002 (continued)

Division Five

**A095217 -- Joe Bob Schmidt et al. v. Kathleen Dudgeon.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J.  
(Not for Publication.)

**A094959 -- Barbara Swor v. Peter Szemerédi.**

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J.  
(Not for Publication.)



Wednesday, June 26, 2002

Division One

**A096700 -- The People v. Scott Leroy Bailey.**

The consecutive sentences are reversed and the matter is remanded for resentencing. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

**A092213 -- Shirley Hackett v. John Crane, Inc.**

**A093411 -- Shirley Hackett v. John Crane, Inc.**

Order Modifying Opinion, Denying Rehearing, and Denying Request for Modification. The Court: It is ordered that the opinion filed herein on May 31, 2002, be modified as follows: (See order.) The judgment is changed by the modification respecting costs on appeal. Defendant and appellant John Crane Inc.'s petition for rehearing is denied. Plaintiff and appellant Shirley Hackett's request for modification is denied. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Certified for Partial Publication.)

**A097603 -- In re Lisa T., a Person Coming Under the Juvenile Court Law. The People v. Lisa T.**

The order adjudicating appellant a ward of the court and placing her in her mother's home is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A095710 -- The People v. Leroy Eugene Wiley, Jr.**

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**A093092 -- The People v. Darnell Sterling Watts.**

**A093420 -- In re Darnell Sterling Watts, on Habeas Corpus.**

The judgment of conviction is affirmed. The petition for writ of habeas corpus is denied. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Wednesday, June 26, 2002 (continued)

Division Three

**A095598 -- The People v. Stephen Arthur Bodenhamer.**

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A095577 -- The People v. Christina Mae Bush.**

The trial court did not abuse its discretion in imposing the challenged condition of probation. The judgment is affirmed. Pollak, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

**A096383 -- In re Ashley R., et al., Persons Coming Under the Juvenile Court Law. Social Services Agency v. Ralph R.**

The order terminating Valerie's parental rights is reversed subject to possible reinstatement following remand, as set forth in part I, *ante*. In all other respects, the orders of the juvenile court are affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A094855 -- Frederick E. Watson v. Allen Ruby et al.**

The judgment is affirmed. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE  
MINUTES

Wednesday, June 26, 2002

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuinness, P.J., Corrigan, J., Parrilli, J., and I. Calanoc, Deputy Clerk.

- A092444      Homestead Insurance Company,  
                         v.  
                         Murphy, Pearson, Bradley & Feeney.  
                         Cause called and argued by Howard Wollitz, counsel for appellant, and  
                         Mark Bonino, counsel for respondent. Cause ordered submitted.
- A093392      The City of Trinidad,  
                         v.  
                         John Frame.  
                         Cause called and argued by William Barnum, counsel for appellant, and  
                         Jeffrey Guttero, counsel for respondent. Cause ordered submitted.
- A094463      The People,  
                         v.  
                         Brandon H.  
                         Cause called and argued by Jonathan Soglin, counsel for appellant, and  
                         Claire Ebey for respondent. Cause ordered submitted.
- A095338      Leslie J. Keyak et al.,  
                         v.  
                         Richard Traverso et al.  
                         Cause called and argued by Terry Traktman, counsel for appellants and  
                         William McClure, counsel for respondents. Cause ordered submitted.

A095793      Antonio Di Giovanni,  
v.  
David J. Olkkola.  
McGuiness, P.J. announced that the panel for this case is comprised of  
McGuiness, P.J., Parrilli, J., and Pollak, J. Cause called and argued by  
Barbara Scramstad, counsel for appellant, and Ford Greene, counsel for  
respondent. Cause ordered submitted. McGuiness, P.J. left the bench after  
this case.

A095435      The People,  
v.  
Peter Richard Zandrino.  
Corrigan, J. announced that the panel for this case is comprised of  
Corrigan, J., Parrilli, J. and Pollak, J. Cause called and argued by Stephen  
Turer, counsel for appellant, and Ryan McCarroll, counsel for respondent.  
Cause ordered submitted.

COURT ADJOURNED

Wednesday, June 26, 2002 (continued)

Division Four

**A092101 -- In re the Marriage of Diana and Mark Aronoff.**

The order is reversed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A095228 -- In re Golden Eagle Insurance Company in Liquidation.**

The judgment of the lower court is affirmed. The parties are to bear their own costs on appeal. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A096387 -- The People v. Derrick Joseph.**

The matter is remanded with instructions to modify the sentencing minute order of September 18, 2001, to omit any reference to imposition of a restitution fine. As so modified, the judgment is affirmed. The clerk of the superior court is directed to file an amended abstract of judgment reflecting this change and to reflect the imposition and stay of the parole revocation fund fine. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

**A097166 -- In re the Marriage of Terrie Lyn and Gary Frank Strokos.**

The order is affirmed. Kay, P.J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A096577 -- Vera Blue et al. v. Diana Bonta, as Director, etc.**

The judgment is reversed. The matter is remanded to the trial court with instructions to grant the petition for writ of mandate. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Certified for Publication.)

**A094326 -- The People v. George Musante, Jr.**

The judgment is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Thursday, June 27, 2002

Division One

**A095328 -- Mitzi Cornejo v. Arnoldo Alvarado.**

The order is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A095966 -- Wilma Moon v. Alameda County Medical Center.**

The order is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A097762 -- In re Cali S., a Person Coming Under the Juvenile Court Law. Social Services Agency v. Shaun S.**

By the Court: Appellant having failed to file a brief after notice given under rule 17(a)(1) of the California Rules of Court, the appeal is dismissed. Marchiano, P.J.

**A091096 -- The People v. Jaime Wilfredo Torres.**

By the Court: The petition for rehearing is granted. Marchiano, P.J.

**A098768 -- In re the estate of Robert H. Willis. Linda Brewster v. San Francisco Public Guardian.**

By the Court: The motion filed June 17, 2002 to vacate the dismissal order this court issued on June 10, 2002 and to reinstate the above-captioned appeal is granted. Appellants' opening brief is to be served and filed within 30 days from the date of this order. Marchiano, P.J.

Division Three

**A094027 -- The People v. Eleno Castaneda.**

The judgment is affirmed. Parrilli, J. I Concur: Corrigan, Acting P.J. (Pollak, J. Concurring.) (Not for Publication.)

Thursday, June 27, 2002 (continued)

**A095683 -- The People v. Kenneth Hue Clark.**

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A094837 -- The People v. Clifford A. Collins.**

The judgment is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

**A098677 -- Roy F. v. The Superior Court; Social Services Agency et al., R.P.I.**

The petition is denied. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A095793 -- Antonio DiGiovanni v. David J. Olkkola.**

Upon our review of the entire record, we conclude there was no abuse of discretion or miscarriage of justice in the trial court's denial of appellant's application for a restraining order under the Act. We therefore affirm the judgment and order from which appellant appeals. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A092444 -- Homestead Insurance Company v. Murphy, Pearson, Bradley & Feeney.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A097636 -- Robin Mitchell, Conservator for Katrina Miller v. Jarrod Merritt.**

The judgment is reversed. Respondent shall pay appellant's costs on this appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Thursday, June 27, 2002 (continued)

**A093392 -- The City of Trinidad v. John Frame.**

The order is affirmed. Respondents shall recover their costs on appeal. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A098376 -- Ida V. v. The Superior Court of Marin County; Marin County Department of Health and Human Services, R.P.I.**

The petition for extraordinary relief is denied on its merits. (See Cal.Const., art, VI, § 14 *Kowis v. Howard, supra*, 3 Cal.4th at p. 894.) Because the section 366.26 hearing is set for July 23, 2002, our decision is final immediately. (Cal. Rules of Court, rule 24(d).) McGuiness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication.)

**A095371 -- Waste Management of Alameda County, Inc. v. City of Fremont, et al.**

The order is reversed. On remand, the trial court should vacate its order sustaining the demurrers and issue a new order overruling the demurrers. Waste Management is awarded costs on this appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Four

**A095717 -- The People v. Jeffrey Paul Carmack.**

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A097508 -- In re the Marriage of Jonetta G. and Nicolas A. Kuciak.**

The appeal is dismissed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

**A092128 -- The People v. Jeffrey Allan Graham.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)



Thursday, June 27, 2002 (continued)

**A094953 -- The People v. Gilbert Marquez.**

The judgment is modified to reduce the terms on counts 2 and 3 from two years to eight months, resulting in a total sentence of 19 years rather than 21 2/3 years. As so modified the judgment is affirmed. The clerk of the superior court is directed to file an amended abstract of judgment reflecting these changes and to forward a copy thereof to the Department of Corrections. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Division Five

**A096733 -- Alfred Fernandez et al. v. Concrete Shell Structures, Inc.**

The judgment is affirmed. Costs on appeal are awarded to Concrete. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

**A095775 -- K.F., a Minor, etc., et al. v. Julia Haynes-Gates et al.**

By the Court: The opinion filed May 28, 2002, is modified as follows: (See order.) The request for publication is denied. This modification does not effect a change in the judgment. Jones, P.J.

**A095003 -- Clayton A. Lewis v. Evelyn Nand.**

The order denying Nand's motion to vacate her default and the default judgment against her is reversed. On remand, the trial court is directed to set aside the default judgment and Nand's default. (*Lopez, supra*, 221 Cal.App.3d at p. 1313.) Nand is awarded her costs on appeal. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Friday, June 28, 2002

Division One

**A096154 -- Larry L. Croghan v. Harper Lloyd, Inc.**

The judgment is reversed, and the matter is remanded to the trial court for further proceedings in accordance with the views expressed in this opinion. Costs to appellant. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A093647 -- Henry Grausz et al. v. Gene Farber; H. Lee Evans.**

**A094737 -- Henry Grausz et al. v. H. Lee Evans.**

The judgment entered on September 28, 2000, is affirmed. The order filed October 1, 1999, designated "Order Awarding Damages on Third Cause of Action (Milvia)" is modified by striking paragraphs 2 and 3 and the case is remanded for entry of a judgment reflecting defendant Farber's interest in Milvia Associates, L.P. In other respects, the order is affirmed. The order taxing costs filed February 21, 2001, is modified by awarding costs of \$21,148.13. Each party to bear his own costs on appeal. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A092398 -- The People v. Ernesto Carranza Gutierrez.**

The judgments appealed from are affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A097262 -- Mike Noushfar v. Iraj Shayesteh et al.**

The order granting the disqualification is reversed. The cause is remanded to the trial court for further proceedings. Each party shall bear its own costs on appeal. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

**A095494 -- In re Orion P., et al., Persons Coming Under the Juvenile Court Law. Department of Health and Human Services v. June N.**

The jurisdictional and dispositional orders are affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Friday, June 28, 2002 (continued)

Division Three

**A094430 -- The People v. Edward Michael Burkett.**

**A098541 -- In re Edward Michael Burkett, on Habeas Corpus.**

The petition for writ of habeas corpus is denied. The judgment is affirmed.  
Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

**A092775 -- Golden Bay Fence Plus Iron Works, Inc. v. Ray Wilson Co.  
et al.**

By the Court: The petition for rehearing is denied. McGuinness, P.J.

**A094463 -- In re Brandon H., a Person Coming Under the Juvenile  
Court Law. The People v. Brandon H.**

The dispositional order is reversed and the cause is remanded to the San Francisco County juvenile court with directions to hear Brandon's motion to withdraw his plea. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Certified for Partial Publication.)

**A089224 -- Patrick Hallinan v. Ciro Mancuso.**

By the Court: The petition for rehearing is denied. McGuinness, P.J.

**A095338 -- Leslie J. Keyak et al. v. Richard Traverso.**

The order denying Traverso's application for preliminary injunction to disqualify the law firm of Jorgensen, Siegel, McClure & Flegel is affirmed. Plaintiffs shall recover their costs on appeal. Pollak, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

**A090211 -- Marilyn V. v. Oakland Unified School District.**

The order granting the JNOV is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Friday, June 28, 2002 (continued)

**A095772 -- Roy Muao v. Grosvenor Properties et al.**

The appeal from the order compelling arbitration is dismissed as premature. The matter is remanded and the trial court shall (1) modify the May 23, 2001 order by striking the sentence. "Therefore, the above-referenced matter is dismissed," and (2) enter an order granting defendants' motion to stay the action pending arbitration. Each side is to bear its own costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Certified for Publication.)

**A091579 -- The People v. Brian Lamar Williams.**

The judgment is affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

Division Four

**A095714 -- Celeste Chapman v. California Department of Social Services; Contra Costa County Department of Social Services, R.P.I.**

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A096237 -- Pacific Bank v. Edward J. Safdie et al.**

The order denying the motion to vacate the renewal of judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**A096341 -- The People v. Chris Tucker.**

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Friday, June 28, 2002 (continued)

Division Five

**A094472 -- Theodis Carroll, Jr., et al. v. Interstate Brands Corporation; Waukeen Q. McCoy.**

The order expunging the attorney's lien is reversed. Costs on appeal are awarded to appellant. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

**A097043 -- In re Brittany H., a Person Coming Under the Juvenile Court Law. Contra Costa County Social Services Department v. Eaeen H.**

The order awarding sole physical and legal custody to Brittany's mother, Quintina, is affirmed. The restraining order and the order denying visitation to appellant Eaeen H. are reversed, and the matter is remanded to the juvenile court for further proceedings consistent with this opinion. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

**A099157 -- Anthony Michael Jones v. The Superior Court of Sonoma County; The People, R.P.I. In re Anthony Michael Jones, on Habeas Corpus.**

By the Court:\* Petitioner's request for resentencing before a different judge in Sonoma County is denied. (Code Civ. Proc., § 170.1, subd. (c); *Kent v. Superior Court* (1992) 2 Cal.App.4th 1392, 1395.) Petitioner's remaining request for relief are denied as moot. (Not for Publication.)

\*Before Jones, P.J., Simons, J. and Gemello, J.

**A096313 -- In re E.W., a Person Coming Under the Juvenile Court Law. The People v. E.W.**

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)